

1 regular basis about these conversations you were having --
2 or the conversation you had with Mr. Nourain --

3 A Yes.

4 Q -- during this week?

5 A Yes.

6 Q Do you recall whether or not Mr. Barr made any
7 changes to the memorandum that's here?

8 A I don't recall.

9 Q Now, I want to ask you some questions about the --
10 well, strike that. Before I get to that --

11 JUDGE SIPPEL: Well, before you do, let me see if
12 I can get some clarification on this third paragraph. I had
13 asked you before about -- a line of questioning about your
14 approach to STAs or your thoughts about STAs in the context
15 of petitions to deny. And now it comes down and you say
16 there was a change -- well, what bothers me is this --
17 your -- this response of yours that the STAs would seem to
18 be the only course of action to take at that time -- at the
19 time, I mean being as of April 1995, April 28th. What do
20 you mean that was the only course of action to take?

21 THE WITNESS: Well, as far as I understood,
22 Liberty wanted to -- needed to get these paths authorized
23 and licensed as soon as possible. The petitions were
24 preventing that. I had originally felt that we would not be
25 successful in -- in having an STA request granted because of

1 the petitions. But after discussing it with Howard and --
2 well, after discussing it with Howard, we felt that we
3 should go ahead and make those requests anyway.

4 JUDGE SIPPEL: Well, but that doesn't -- how did
5 you -- how did you go from A to B there? I mean, you've got
6 -- you start off -- the paragraph -- first of all, it's
7 starting with what you testified to before we broke for
8 lunch. And then I'm adding on top of that that you and Mr.
9 Barr, according to this memo, made the inquiry about the
10 chances of getting STA authority. And you were told by the
11 Commission staff that it didn't look to good --

12 THE WITNESS: That's correct.

13 JUDGE SIPPEL: -- to say --

14 THE WITNESS: Right.

15 JUDGE SIPPEL: -- I mean that's putting -- and
16 nonetheless, you said having thought all of that, you still
17 felt that because the client wanted to get the authorization
18 -- is that right?

19 THE WITNESS: Yes.

20 JUDGE SIPPEL: -- so -- they wanted to get that
21 authorization so badly --

22 THE WITNESS: Yes.

23 JUDGE SIPPEL: -- that you decided -- not you
24 personally, but you and your colleagues decided, well, we're
25 going to file the STAs anyway.

1 THE WITNESS: That's correct.

2 JUDGE SIPPEL: And did you tell -- but why? I
3 mean, why do something that's virtually a fruitless act?

4 THE WITNESS: To get it on the record.

5 JUDGE SIPPEL: To get it on the record.

6 THE WITNESS: Yes.

7 JUDGE SIPPEL: Why do you want to get it on the
8 record? What do you want to get on the record? I've asked
9 you two questions. That's not fair. What did you want to
10 get on the record?

11 THE WITNESS: We wanted to get on the record that
12 Liberty was in need of getting -- was in need of these
13 authorizations. And by filing an STA, we would have -- we
14 would have that on the record. I mean, you can assume that
15 since they filed an application, that they would want
16 service as soon as possible. But for the reasons that we
17 set forth in the STA, we were trying to convince the
18 Commission that, notwithstanding Time Warner's petition to
19 deny, Liberty should be allowed to operate these paths.

20 JUDGE SIPPEL: But the way you explain it leading
21 up to what -- what was ultimately -- the ultimate filing as
22 I'm hearing this explanation, it almost sounds like it was
23 an act of desperation.

24 THE WITNESS: Yes. I suppose so. I mean, there
25 was nothing else we could do.

1 JUDGE SIPPEL: Well, you could have -- well, I
2 guess -- well, there was nothing else you could do except
3 just to do nothing --

4 THE WITNESS: Nothing. That's --

5 JUDGE SIPPEL: -- unless you thought that
6 something -- something else -- some other factor that
7 prompted you, as you say, to try and get on record as
8 rapidly as you could, at least at this point. It -- I mean,
9 your explanation is -- it just doesn't -- there seems to be
10 something missing.

11 There seems to be something -- either you don't
12 have the information or for some reason or the other it's
13 not coming out. But -- what were you disclosing to the
14 Commission in the STA that -- I mean, you gave it your best
15 shot on the STAs. What was the -- you know, what was the
16 critical -- the most critical information you felt that you
17 were giving the Commission that would warrant them in your
18 opinion to go your way on it?

19 THE WITNESS: It wasn't a specific piece of
20 information, but it was the argument that we felt that this
21 was some kind of anti-competitive act by Time Warner and
22 Cablevision to prevent a competitor to provide service in
23 New York City. That was the basis for our STA request.

24 JUDGE SIPPEL: You mean sort of like a predatory
25 practice by filing petitions to deny?

1 THE WITNESS: Yes, that's correct.

2 JUDGE SIPPEL: You didn't say it that way in the
3 STA though, did you or did you?

4 THE WITNESS: I little more eloquently I think.

5 JUDGE SIPPEL: Well, I'm sometimes -- I'm not that
6 -- I'm just trying to get to the bottom line on this.

7 THE WITNESS: Before this -- before this point in
8 time, we did not believe that the Commission would grant
9 such an STA. But after Howard and I had discussed it, we
10 decided, well, whether they do or -- whether they act on it
11 or not, we should at least file it.

12 JUDGE SIPPEL: And these are being filed -- these
13 STAs are being filed with respect to -- to paths which had
14 been prematurely activated. Am I correct on that?

15 THE WITNESS: At that -- at the time this was
16 written, at the time we filed it, I did not know that.

17 JUDGE SIPPEL: I didn't ask that in my question.

18 THE WITNESS: Okay.

19 JUDGE SIPPEL: But when you did file -- you went
20 forward as you've outlined in your memo. You did file STAs
21 and they were being filed with respect to paths that had
22 been prematurely activated.

23 THE WITNESS: Yes, I found that out subsequently,
24 yes.

25 JUDGE SIPPEL: You found that out subsequently.

1 THE WITNESS: Yes, yes.

2 JUDGE SIPPEL: And when did you find that out?

3 THE WITNESS: In the -- when Liberty had disclosed
4 that it had operated -- that it had turned on a number of
5 these paths prematurely. I'm not sure when that was. I
6 believe that was in -- was that May 17th, I believe, in the
7 surreply where Liberty disclosed --

8 JUDGE SIPPEL: Well, is that the first time that
9 you learned about it?

10 THE WITNESS: That -- that's the first time I
11 learned about each specific -- what specific paths were --
12 were being operated.

13 JUDGE SIPPEL: Was that the first time you learned
14 about the fact that there were -- that without delineating
15 STA application by path, did -- was there an earlier date
16 that you became aware of the fact of the generic problem?

17 THE WITNESS: Yes.

18 JUDGE SIPPEL: We had our STAs being filed and
19 these things had been prematurely activated. What was that
20 date?

21 THE WITNESS: That was when I reviewed Time
22 Warner's reply in this case where they had charged that
23 Liberty was operating two paths without authority.

24 JUDGE SIPPEL: That was the first -- that was
25 early May, right?

1 THE WITNESS: Yes, it was.

2 JUDGE SIPPEL: And that was the first time.

3 THE WITNESS: Yes.

4 JUDGE SIPPEL: You saw it first in print. Nobody
5 called you up and said --

6 THE WITNESS: That's correct.

7 JUDGE SIPPEL: Did you -- did you -- did you
8 form -- did you feel after you learned -- how did you feel
9 after you learned about that?

10 THE WITNESS: Well, I mean after I -- after I saw
11 it in the petition, I wasn't -- I guess I wasn't too
12 surprised owing to the fact that this was an allegation made
13 by Time Warner. I mean, I was -- I was curious to know
14 whether or not it was true. But I certainly didn't assume
15 that something like that could have happened.

16 JUDGE SIPPEL: When did you become convinced that
17 it was true?

18 THE WITNESS: When we had prepared the surreply to
19 that -- to that reply document.

20 JUDGE SIPPEL: So between early May and May 17th,
21 do I have that date right?

22 THE WITNESS: Yes.

23 JUDGE SIPPEL: You were -- you were sort of up in
24 the air about it yourself.

25 THE WITNESS: That's -- right, that's correct.

1 JUDGE SIPPEL: Did you at any time feel that --
2 looking back at what you were saying on April 28th and
3 having almost -- I mean, this is my characterization, but it
4 almost seems that you were going against your -- your better
5 judgement. But because the client was so insistent, you
6 were going to file these STAs. Did you in any way feel that
7 you had been taken advantage of or perhaps that you were
8 being -- sought to be used to cover up a situation that --
9 you didn't?

10 THE WITNESS: No, I had no reason to believe that.

11 JUDGE SIPPEL: Well, I -- as I say, I'm just
12 having -- I -- I just have that -- I just have this feeling
13 that there is something -- there is -- there is information
14 that's missing here because just filing STAs for the sake of
15 satisfying an urge almost knowing full well that they
16 weren't going to be given but -- well, you don't have
17 obviously a metaphysical certainty, but you knew. Between
18 yourself and Mr. Barr, you had come to that conclusion. And
19 yet you still went forward and filed them.

20 THE WITNESS: Well --

21 JUDGE SIPPEL: And you thought that you were going
22 to be able to -- well, I don't know that you thought you
23 would be able to convince the Commission. But your best
24 argument, your best shot at the Commission was that you felt
25 that Time Warner was deliberately trying to just inhibit

1 your -- your client's activities.

2 THE WITNESS: Yes. Ultimately we did get those
3 STAs granted. It took quite a while. I mean, I don't know
4 whether or not -- I mean, I think it was more the fact that
5 we knew that the Commission may not -- may not have granted
6 any STAs for a long time. It would certainly be an uphill
7 battle.

8 I mean, we were dealing with the regular
9 Commission staff when -- when we learned that, you know,
10 they weren't just going to routinely grant us an STA; that
11 this was definitely going to require a lot more effort. I
12 mean, I think that's -- that's ultimately the conclusion
13 that we came to. I mean, we didn't just all of a sudden
14 say, well, they told us that we're never going to get them;
15 therefore, we're going to file it anyway. I mean, as an FCC
16 attorney, nothing's impossible in that regard. And
17 ultimately we did get them.

18 JUDGE SIPPEL: Well, I don't -- I don't argue with
19 the fact that, you know, counsel are -- can certainly be
20 very tenacious about trying to get the relief that the
21 client wants. And I'm not -- I'm not in anyway even seeking
22 to be critical of that at all. It's just that I -- I -- you
23 just seemed to have jumped, as I say, from -- from thesis A
24 to thesis B. And there's something missing in between in
25 terms of my being able to -- to follow the rationale on

1 this. But maybe -- well, we'll just have to keep asking the
2 questions.

3 You testified I thought, according to the notes
4 that I made when you were testifying this morning, this --
5 that this clause down at the bottom of paragraph 3, "Owing
6 to the seriousness of the situation" --

7 THE WITNESS: Yes.

8 JUDGE SIPPEL: -- I had made a notation that your
9 testimony on that was that the seriousness was -- arose out
10 of the petitions, the TW petitions, the Time Warner
11 petitions.

12 THE WITNESS: Yes, that's correct.

13 JUDGE SIPPEL: But that -- that situation was a
14 serious situation that had been going on for a couple of
15 months, is that right?

16 THE WITNESS: That's exactly why it was a serious
17 situation.

18 JUDGE SIPPEL: But you -- at this -- it had just
19 come to a head? I mean, is that what it really was, that
20 something had -- this had been building up and now you get
21 to April 28th, this is the time that --

22 THE WITNESS: I think --

23 JUDGE SIPPEL: -- this was the time that we're
24 going to move on this?

25 THE WITNESS: I think that by this time, it was

1 made clear to us that they were going to file against every
2 single application that we filed.

3 JUDGE SIPPEL: Did you ever -- well, I'm not going
4 to suggest a remedy. Well, I mean, it --

5 THE WITNESS: I mean --

6 JUDGE SIPPEL: If you -- if -- if -- did you
7 consult antitrust litigation counsel to -- I mean, how
8 deeply did you look into this? If that's the reason, you're
9 really serious about that kind of a predatory practice --

10 MR. BEGLEITER: There's an antitrust case pending.

11 JUDGE SIPPEL: On the basis of this -- this
12 conduct?

13 MR. BEGLEITER: No.

14 THE WITNESS: We didn't -- we didn't make those
15 charges specifically in the STA. I mean, as I recall, our
16 justification for the STA was that competition is within the
17 public interest. And due to the fact that Time Warner had
18 petitioned against a number of -- a number of applications
19 that Liberty had filed for new service and that Liberty was
20 only -- was the only real serious competition that Time
21 Warner had in the New York area, that the Commission should
22 grant us STA notwithstanding the fact that Time Warner had
23 petitioned against all of these applications.

24 JUDGE SIPPEL: Well, all right.

25 THE WITNESS: I mean, we didn't get into the finer

1 points of anti -- antitrust and that type of thing. But --

2 JUDGE SIPPEL: Well, as I say, this is -- it is
3 not for me to second guess. What I'm trying to do is I'm
4 trying to probe and I'm trying to find out what some of this
5 -- this is very broad language -- seriousness of the
6 situation. The one avenue it would seem to me would be if
7 this was -- I mean, if you were really so pressed and felt
8 that you had such a strong case on -- on predatory practice,
9 you could probably get a district court judge to enjoin the
10 practice. It's not going to get a mandatory injunction
11 against the Commission. But I mean, you could -- if it was
12 that self-evident. Now, I mean, you've got some very
13 difficult questions of fact on this. But --

14 THE WITNESS: I mean, the seriousness of the
15 situation goes to the fact that Time Warner had been
16 petitioning against all of these applications since January.
17 And, I mean, there were a number of paths involved in those
18 applications. And none of them could be granted. And it
19 was -- it was creating a log jam. I mean, Liberty couldn't
20 turn service on.

21 JUDGE SIPPEL: But what brought it to a head on
22 the 28th of April? Maybe I'm -- I'm very interested in the
23 answer.

24 //

25 //

1 THE WITNESS: I think it was the conversation I
2 had with Behrooz preceding this memo where he was -- you
3 know, he was -- he was somewhat agitated and -- and I mean,
4 I was concerned that we were back to the situation where we
5 were two years ago where we -- there was a processing delay.

6 (Continued on next page.)

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1 JUDGE SIPPEL: For a different reason.

2 THE WITNESS: For a different reason, yes, but
3 Liberty wasn't getting authorizations.

4 THE COURT: All right. That's as much as I want
5 to ask him.

6 MR. BECKNER: Your Honor, before I ask the witness
7 any more questions, I just want to note for the record that
8 you were commenting about the fact that STAs ultimately were
9 granted. The STAs were granted about two weeks after the
10 internal audit report was submitted to the Bureau which is
11 one reason why we'd be interested in having the report and
12 telling you that it's important.

13 JUDGE SIPPEL: I promised myself not to talk about
14 that again.

15 MR. BECKNER: I'm sorry, I didn't mean to break
16 any promises, mine or yours, but that is a matter of record.

17 JUDGE SIPPEL: And those are the STAs, of course,
18 those STAs that were granted are the ones that were subject
19 to this proceeding, right?

20 MR. BECKNER: That's correct.

21 MR. BEGLEITER: All STAs.

22 MR. BECKNER: Well, I guess now they're strictly
23 speaking not STAs, but they're grants of interim
24 authorities.

25 MR. BEGLEITER: Interim operating authorities,

1 right.

2 MR. BECKNER: Something that I've never
3 understood. But let me go back and ask a couple more
4 questions about this third paragraph and just get a couple
5 things in the record.

6 BY MR. BECKNER:

7 Q The table that's attached to the memorandum has
8 been marked as Exhibit 34, Mr. Lehmkuhl. The last column is
9 PD Date. What's that?

10 A I believe that's the date of Time Warner's
11 petition to deny.

12 Q Okay. And except for the last five in this list
13 that spans about a page and a third, all these petitions to
14 deny were filed in January, '95, correct?

15 A No, there were some that were filed in April.

16 Q No, I said except for the last five.

17 A Oh, except for the -- right, okay.

18 Q And I think you've already testified that you
19 realized in either January or February after these petitions
20 were filed that they were going to delay the resolution of
21 Liberty's applications, correct?

22 A Yes.

23 Q So the situation was serious then and you knew it
24 was serious then did you not?

25 A I --

1 MR. BEGLEITER: When's that, Mr. Beckner?

2 BY MR. BECKNER:

3 Q At the time that these petitions were filed and
4 you realized that it would delay the processing of the
5 application.

6 A I, I, I think I just had the tip of the iceberg at
7 that point.

8 Q Well, what -- you used the metaphor tip of the
9 iceberg. What was the iceberg?

10 A Well, as time went on, more and more petitions
11 were filed against subsequent applications.

12 Q Well, I'm looking for them here. All I see is
13 five petitions filed in April.

14 A These were only, well, this memo only goes to
15 April.

16 Q What I'm trying to get at, and it's something that
17 I think the Judge was trying to get at, was what happened on
18 April 28th that made this situation so serious that wasn't
19 serious in January of '95?

20 A Um, it was --

21 Q It wasn't the filing of five more petitions on
22 April 17th and April 10th was it?

23 A I don't believe so.

24 Q Okay.

25 A It was the conversation that I had with Berrus. I

1 mean, he was agitated that these, these applications hadn't
2 been, hadn't been granted, that there had been no action on
3 them.

4 Q So the seriousness of the situation as far as you
5 knew was the client was very upset about the delay.

6 A The seriousness of the situation was the fact that
7 Time Warner had petitioned against all of Liberty's
8 applications.

9 Q But that happened --

10 A And that snowballed. So now we had, now we're in
11 April and we filed all of these applications and it's going
12 to be a long time before we see a grant on any of them.

13 Q Well, you knew -- you testified that you knew that
14 at the time that the petitions were filed in January.

15 MR. BEGLEITER: Your Honor, I don't think that's
16 correct.

17 MR. BECKNER: Or certainly by February. That this
18 was going to delay things.

19 JUDGE SIPPEL: Yeah, January -- I'm sorry, what
20 did you say was not correct?

21 MR. BEGLEITER: That he knew in January how long
22 the delay was going to be.

23 JUDGE SIPPEL: No, that's --

24 MR. BECKNER: That there was going to be a delay.
25 I didn't say --

1 JUDGE SIPPEL: Yes. I think he's -- all right.
2 Go ahead. I'll take that in the form of an objection and
3 I'll sustain the objection, but you're not far from being
4 where, you're not far from being wrong on this, Mr. Beckner.

5 BY MR. BECKNER:

6 Q Yeah, my question simply was, Mr. Lehmkuhl, while
7 you didn't know how long the delay was going to be, in fact,
8 you knew when Time Warner filed these petitions to deny in
9 January that there was as a result of those going to be a
10 delay in the processing of those applications, correct?

11 A Yes.

12 Q Okay. And again just for the record, in terms of
13 the mechanics of the proceedings, the Commission's rules
14 provide for the filing of a petition to deny and they
15 provide for an opposition to the petition, they provide for
16 a reply. And that's it in terms of the pleadings, correct?

17 A That's correct.

18 Q And then once those three documents have been
19 filed, the matter is ripe for decision by the Commission's
20 staff, correct?

21 A Yes.

22 Q And, and, and isn't it true that by the time that,
23 even before this memo was done, that the pleading cycle on
24 these January petitions had finished? There was a petition,
25 an opposition and a reply.

1 A I believe so. I don't recall.

2 Q All right. So those applications were in fact
3 ripe for decision by the Commission.

4 A It's possible. Yes, I assume so. Aside from the
5 ones that were filed in April, then again in the beginning
6 of April where the whole cycle would start all over again.

7 Q Right. I was asking you about the January
8 petitions, not the April ones. Now, there's -- I want to
9 ask you about a couple of specific entries that we have here
10 on this status list. You list a couple of paths with a G
11 next to them and that meant that you thought they were
12 granted, is that right?

13 A Yes.

14 Q Well, can you explain why you thought that, for
15 example, 30 Waterside was granted when there was a petition
16 to deny filed on April 17th?

17 A That was April 10th. 30 Waterside?

18 Q Yes.

19 A April 10th.

20 Q What's April 10th?

21 A That's when the petition to deny was filed
22 according to the application status.

23 MR. HOLT: He's looking at the transmit site --
24 there's two Waterside address.

25 //

1 BY MR. BECKNER:

2 Q Okay. I'm looking at the very last entry on the
3 first page of your status list.

4 A Oh, okay. Crystal Plaza II, 30 Waterside.

5 Q Right.

6 A And what was your question again, please?

7 Q The question is the status column is a G. That
8 means granted, right?

9 A Yes.

10 Q Okay. And there's an indication that a petition
11 to deny was filed on April 17th for that path, is that
12 right?

13 A Yes.

14 Q Can you explain how that one was granted, the
15 petition to deny filed on April 17th?

16 A I believe it appeared in the public notice, in a
17 public notice as being granted.

18 Q Now, did that turn out to be erroneous?

19 A Yes.

20 Q Okay. What about the one immediately above that
21 on list 433 East 56th?

22 A Yes.

23 Q So that was erroneously published as granted in
24 the public notices?

25 A Yes. It was either the public notice or it even

1 may have been a copy of the public license that was issued
2 by the Commission. Because I think in a few of these cases
3 a license had been issued.

4 Q I'd like you just to turn to page, again, just by
5 way of explanation, there were three more paths indicated as
6 granted, 61 Broadway, 16 West 16th and 6 East 44th. Were
7 those also erroneously notice as granted?

8 A Yes, I believe so.

9 Q All right. I want you to take a look at Time
10 Warner Cablevision Exhibit 36 which should be up there with
11 you.

12 MR. BEGLEITER: It's an FCC letter.

13 MR. BECKNER: It's a copy of an FCC letter with a
14 stamp dated April 24, 25.

15 MR. BEGLEITER: It may be separate.

16 BY MR. BECKNER:

17 Q It may be separate.

18 A Okay.

19 Q Okay. Do you recognize that letter?

20 A Yes.

21 Q And as you read that letter, does that to you
22 appear to refer to the five applications or five paths we've
23 just been discussing or erroneously reported as granted?

24 A I believe so. I don't have -- I can't verify
25 specifically right now, but, yes. That looks, that looks to

1 be correct.

2 Q Okay. Fine. I just wanted to clear that up. Do
3 you recall receiving a copy of Exhibit 36 from either the
4 FCC or Liberty?

5 A Not directly, no.

6 Q I mean, do you recall knowing about it before we
7 just showed it to you a moment ago?

8 A Yes.

9 Q Okay. Do you remember when you knew about it?

10 A I don't recall specifically. I believe it was
11 some time in late or in May, in early May.

12 Q It would have been I take it after April 28th, the
13 date that you did this memo.

14 A Yes.

15 Q All right. Do you have any indication that
16 Mr. Nourain or anyone else at Liberty knew about this memo
17 that's been marked as Exhibit -- this letter that's been
18 marked as Exhibit 36 on or before April 28th?

19 A I believe it may have been, I believe it was faxed
20 to our office from Liberty.

21 Q Do you know when it was faxed?

22 A Not specifically, no.

23 Q But was it faxed before April 28th to your office?

24 A No.

25 Q No. Afterwards. Okay.

1 JUDGE SIPPEL: It's five minutes to 3:00. The
2 witness has been on that stand since 1:15. Would this be an
3 appropriate time for your order to take a break?

4 MR. BECKNER: Yes, sir. Yes, it is. I was just
5 going to suggest that we do that.

6 JUDGE SIPPEL: All right. Why don't we come back
7 at ten minutes to 3:00? We're in recess.

8 (Whereupon, a brief recess was taken.)

9 JUDGE SIPPEL: Back on the record. Any more
10 questions? The witness is on the stand.

11 BY MR. BECKNER:

12 Q All right. Mr. Lehmkuhl, I think we can move
13 beyond Exhibit 34. I want to, I want you to turn to
14 Exhibit 17.

15 JUDGE SIPPEL: This is a Time Warner?

16 BY MR. BECKNER:

17 Q This is Time Warner Cablevision Exhibit 17. It's
18 in the large black notebook. Do you have that in front of
19 you, sir?

20 A Yes, I do.

21 Q Okay. Do you recognize this as a copy of STA
22 requests that you filed on Liberty Cable's behalf on
23 April 4th, 1995?

24 A Yes.

25 Q And are these the requests that you filed in

1 response to the telephone conversation you had with
2 Mr. Nourain the previous week that we've talked about?

3 A Yes, I believe they are.

4 Q All right. Now, I want to ask you about the
5 signatures on these requests. If you'd turn to the page
6 that's marked 006 at the bottom right of the exhibit, that's
7 the signature page.

8 A Yes.

9 Q Do you know whether or not that signature page was
10 done in blank by Mr. Nourain?

11 A Uh --

12 Q Some time, you know, some time before this thing
13 was filed?

14 A I can't say for certain, but I would venture to
15 say that probably not. That since this STA was different
16 than the renewals that we had filed previously that I faxed,
17 I would have faxed this to him and he would have signed it
18 and sent the signature back to me.

19 Q Okay. Now, when you say you would have faxed this
20 to him, would you have faxed to him the entire request or
21 just the signature page?

22 A The entire request.

23 Q Okay. So your testimony is that -- and I'll note
24 for the record that there are multiple requests all with the
25 same date that are within this exhibit.

1 JUDGE SIPPEL: I was going to ask that.

2 BY MR. BECKNER:

3 Q All right. So did you send -- Mr. Lehmkuhl, did
4 you send Mr. Nourain a copy of each of these requests or
5 just one of them and with the information the others were
6 identical except for the particular path?

7 A I don't recall specifically. I believe we, well,
8 I probably would have faxed all of them up to him, but I
9 don't recall specifically.

10 Q Well, just to be sure here, this is a 54 page
11 exhibit including transmittal letters and a copy of a check
12 and so on. Do you think you faxed those entire 50 odd pages
13 up to Mr. Nourain, not counting the letters, of course?

14 A Probably -- probably not.

15 Q Okay. But do you think that you faxed the actual
16 special temporary authority request, for example, the one
17 that pages -- that have been marked 3 through 6 of the
18 exhibit? Do you think maybe you faxed those up to
19 Mr. Nourain?

20 A Yes, he would have received a copy of the STA.

21 Q Okay. And then, and then he sent back to you a
22 signed signature page did he?

23 A Yes.

24 Q For each of these?

25 A Yes.